

Regular Session, 2010

SENATE BILL NO. 393

BY SENATOR CLAITOR

SPECIAL DISTRICTS. Creates the Shenandoah Estates Crime Prevention and Improvement District in East Baton Rouge Parish. (gov sig)

AN ACT

To enact R.S. 33:9097.8, relative to crime prevention and improvement districts; to create the Shenandoah Estates Crime Prevention and Improvement District in East Baton Rouge Parish; to provide for the powers and duties of the district and its board of commissioners; to provide for a parcel fee; to provide with respect to termination of the district; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:9097.8 is hereby enacted to read as follows:

§9097.8. Shenandoah Estates Crime Prevention and Improvement District

A. Creation. There is hereby created within the parish of East Baton Rouge, as more specifically provided in Subsection B of this Section, a body politic and corporate which shall be known as the Shenandoah Estates Crime Prevention and Improvement District, hereinafter referred to as the "district." The district shall be a political subdivision of the state as defined in the Constitution of Louisiana.

B. Boundaries. The boundaries of the district shall be that area within

Filings 1 through 30 of the Shenandoah Estates Subdivision in East Baton Rouge Parish as established in the official subdivision plat filed with the clerk of court of East Baton Rouge Parish.

C. Purpose. The district is established for the purpose of promoting and encouraging security in the area included within the district and promoting and encouraging the beautification and overall betterment of the district.

D. Governance. (1) The district shall be governed by a nine-member board of commissioners, referred to in this Section as the "board." The board shall be composed as follows:

(a) The President of the Shenandoah Estates Homeowners' Association, Inc., referred to in this Section as the "association."

(b) The board of directors of the association shall appoint four members.

(c) The mayor-president of East Baton Rouge Parish shall appoint one member from a list of nominations submitted by the association.

(d) The member of the governing authority of East Baton Rouge Parish whose council district encompasses all or the greater portion of the area of the district shall appoint one member from a list of nominations submitted by the association.

(e) The member of the Louisiana House of Representatives whose district encompasses all or the greater portion of the area of the district shall appoint one member.

(f) The member of the Louisiana Senate whose district encompasses all or the greater portion of the area of the district shall appoint one member.

(2) All members of the board shall be residents of the district.

(3)(a) Board members serving pursuant to Subparagraphs (1)(b) through (f) of this Subsection shall serve four-year terms after initial terms as provided in this Subparagraph. Two members shall serve initial terms of one year; two shall serve initial terms of two years; two shall serve initial terms of three years; and two shall serve initial terms of four years, as determined by lot

1 at the first meeting of the board.

2 (b) The member serving pursuant to Subparagraph (1)(a) of this
3 Subsection shall serve during his term of office as president of the association.

4 (c) Any vacancy which occurs prior to the expiration of the term for
5 which a member of the board has been appointed shall be filled for the
6 remainder of the unexpired term in the same manner as the original
7 appointment. Board members shall be eligible for reappointment.

8 (4) The board shall elect from its members a chairman, a vice chairman,
9 a secretary, a treasurer, and such other officers as it may deem necessary. The
10 duties of the officers shall be fixed by the bylaws adopted by the board.

11 (5) The minute books and archives of the district shall be maintained by
12 the secretary of the board. The monies, funds, and accounts of the district shall
13 be in the official custody of the board.

14 (6) The board shall adopt such rules and regulations as it deems
15 necessary or advisable for conducting its business affairs. Rules and regulations
16 of the board relative to the notice and conduct of meetings shall conform to
17 applicable law, including, if applicable, R.S. 42:4.1 et seq., relative to open
18 meetings. The board shall hold regular meetings as shall be provided for in the
19 bylaws and may hold special meetings at such times and places within the
20 district as may be prescribed in the bylaws.

21 (7) A majority of the members of the board shall constitute a quorum
22 for the transaction of business. The board shall keep minutes of all meetings
23 and shall make them available through the secretary of the board.

24 (8) Each member of the board shall have one vote, and the vote of a
25 majority of the members of the board present and voting, a quorum being
26 present, shall be required to decide any question upon which the board takes
27 action.

28 (9) The members of the board shall serve without compensation but
29 shall be reimbursed for their reasonable out-of-pocket expenses directly related

1 to the governance of the district.

2 E. Powers and Duties. The district, acting through its board, shall have
3 the following powers and duties:

4 (1) To sue and be sued.

5 (2) To adopt, use, and alter at will a corporate seal.

6 (3) To receive and expend funds collected pursuant to Subsection F of
7 this Section and in accordance with a budget adopted as provided by Subsection
8 H of this Section.

9 (4) To enter into contracts with individuals or entities, private or public.

10 (5) To provide or enhance security patrols in the district, to provide for
11 improved lighting, signage, or matters relating to the security of the district, to
12 provide for the beautification of and improvements for the district, or to
13 provide generally for the overall betterment of the district.

14 (6) To enter into contracts and agreements with one or more other
15 districts for the joint security, improvement, or betterment of all participating
16 districts.

17 (7) To provide for such services and make such expenditures as the
18 board deems proper for the upkeep of the district.

19 (8) To acquire or lease items and supplies which the board deems
20 instrumental to achieving the purposes of the district.

21 (9) To procure and maintain liability insurance against any personal or
22 legal liability of a board member that may be asserted or incurred based upon
23 his service as a member of the board or that may arise as a result of his actions
24 taken within the scope and discharge of his duties as a member of the board.

25 (10) To perform or have performed any other function or activity
26 necessary or appropriate to carry out the purposes of the district or for the
27 overall betterment of the district.

28 F. Parcel Fee. The governing authority of East Baton Rouge Parish is
29 hereby authorized to impose and collect a parcel fee within the district subject

1 to and in accordance with the provisions of this Subsection.

2 (1) The amount of the fee shall be as requested by duly adopted
3 resolution of the board. The fee shall be a flat fee per improved parcel of land
4 not to exceed one hundred fifty dollars per year for each improved parcel,
5 starting with fifty dollars for the first calendar year.

6 (2) The fee shall be imposed on each improved parcel located within the
7 district except as provided in Paragraph (4) of this Subsection.

8 (a) For purposes of this Section, "parcel" means a lot, a subdivided
9 portion of ground, an individual tract, or a "condominium parcel" as defined
10 in R.S. 9:1121.103.

11 (b) The owner of each parcel shall be responsible for payment of the fee.

12 (3)(a)(i) The fee of fifty dollars for the first calendar year, subject to
13 change thereafter by duly adopted resolution of the board, not to exceed the
14 maximum amount authorized as provided in this Subsection, shall be imposed
15 only after the question of its imposition and the board's authority to increase
16 the fee has been approved by a majority of the registered voters of the district
17 who vote on the proposition at an election held for that purpose in accordance
18 with the Louisiana Election Code.

19 (ii) No other election shall be required except as provided by this
20 Paragraph.

21 (b) The initial election on the question of the imposition of the fee shall
22 be held at the same time as a regularly scheduled election in East Baton Rouge
23 Parish.

24 (c) If approved, the fee and the board's authority to increase it shall
25 expire in five years, but the fee and board authority may be renewed if
26 approved by a majority of the registered voters of the district voting on the
27 proposition at an election as provided in Subparagraph (a) of this Paragraph.

28 Any election to authorize the renewal of the fee shall be held only at the same
29 time as the regular scheduled election for East Baton Rouge Parish. If the fee

1 and board authority is renewed, the term of the imposition of the fee shall be as
2 provided in the proposition authorizing such renewal, not to exceed eight years.

3 (4) No fee shall be imposed upon any parcel whose owner qualifies for
4 and receives the special assessment level provided by Article VII, Section
5 18(G)(1) of the Constitution of Louisiana.

6 (5) The fee shall be collected at the same time and in the same manner
7 as ad valorem taxes on property subject to taxation by East Baton Rouge Parish
8 are collected.

9 (6) Any parcel fee which is unpaid shall be added to the tax rolls of East
10 Baton Rouge Parish and shall be enforced with the same authority and subject
11 to the same penalties and procedures as unpaid ad valorem taxes.

12 (7)(a) The proceeds of the fee shall be used solely and exclusively for the
13 purpose and benefit of the district; however, the East Baton Rouge Parish
14 Sheriff may retain one percent of the amount collected as a collection fee.

15 (b) The East Baton Rouge Parish Sheriff shall remit to the district all
16 amounts collected not more than sixty days after collection.

17 G. Additional Contributions. The district is authorized to solicit and
18 accept additional voluntary contributions and grants to further the purposes of
19 the district.

20 H. Budget. (1) The board shall adopt an annual budget in accordance
21 with the Local Government Budget Act, R.S. 39:1301 et seq.

22 (2) The district shall be subject to audit by the legislative auditor
23 pursuant to R.S. 24:513.

24 I. Miscellaneous. It is the purpose and intent of this Section that any
25 additional security patrols, public or private, or any other security or other
26 services or betterments provided by the district shall be supplemental to and not
27 be in lieu of personnel and services to be provided in the district by the state of
28 Louisiana, East Baton Rouge Parish, or their departments or agencies or by
29 other political subdivisions.

1 **J. Dissolution. (1) The district may be dissolved without the vote of the**
2 **registered voters of the district if a majority of the area covered by the district**
3 **becomes included in another district that serves similar purposes but includes**
4 **additional parcels of property adjacent to the district, if approved by the**
5 **affirmative vote of not less than five members of the board. If the district is**
6 **dissolved in accordance with this Paragraph, the funds of the district that relate**
7 **to the portion of the district that is included in the new district, together with**
8 **any other funds collected by the Parish of East Baton Rouge pursuant to this**
9 **Section that relate to such portion of the district, shall be transferred to the new**
10 **district to be used for purposes of the new district. The remaining portion of**
11 **funds, if any, shall be transmitted by the board to the Parish of East Baton**
12 **Rouge and such funds shall be used only for law enforcement, security,**
13 **improvement, and beautification purposes of the area that was formerly within**
14 **the district but is not included in the new district.**

15 **(2) If the district is dissolved pursuant to Paragraph (1) of this**
16 **Subsection, the authority for the imposition of the parcel fee provided in**
17 **Subsection F of this Section shall cease.**

18 **K. Indemnification and Exculpation. (1) The district shall indemnify**
19 **its officers and board members to the fullest extent permitted by R.S. 12:227,**
20 **as fully as if the district were a nonprofit corporation governed thereby, and as**
21 **may be provided in the district's bylaws.**

22 **(2) No board member or officer of the district shall be liable to the**
23 **district or to any individual who resides, owns property, visits, or otherwise**
24 **conducts business in the district for monetary damages for breach of his duties**
25 **as a board member or officer, provided that the foregoing provision shall not**
26 **eliminate or limit the liability of a board member or officer for any of the**
27 **following:**

28 **(a) Acts or omissions not in good faith or which involve intentional**
29 **misconduct or a knowing violation of law.**

(b) Any transaction from which he derived an improper personal benefit.

(3) To the fullest extent permitted by R.S. 9:2792 et seq., including R.S. 9:2792.1 through 2792.9, a person serving the district as a board member or officer shall not be individually liable for any act or omission arising out of the performance of his duties.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

DIGEST

Proposed law creates the Shenandoah Estates Crime Prevention and Improvement District in East Baton Rouge Parish.

Proposed law creates the district as a political subdivision of the state as defined in the Constitution of Louisiana and defines its boundaries as Filings 1 through 30 of the Shenandoah Estates Subdivision in East Baton Rouge Parish for the purpose of promoting and encouraging security in the area included within the district and promoting and encouraging the beautification and overall betterment of the district.

The district is governed by a 9-member board of commissioners composed as follows:

- (1) The President of the Shenandoah Estates Homeowners Association, Inc.
- (2) Four members appointed by the board of directors of the association.
- (3) One appointed by the mayor-president of EBR from a list of nominations submitted by the association.
- (4) One member appointed by the member of the governing authority of EBR whose council district encompasses all or the greater portion of the area of the district from a list of nominations submitted by the association.
- (5) One member appointed by the member of the Louisiana House of Representatives whose district encompasses all or the greater portion of the area of the district.
- (6) One member appointed by the member of the Louisiana Senate whose district encompasses all or the greater portion of the area of the district.

All members of the board must be residents of the district. They serve 4-year terms except for the President of the association who is ex officio. Two members serve initial terms of one

year; two serve initial terms of 2 years; two serve initial terms of 3 years; and two serve initial terms of 4 years, as determined by lot at the first meeting of the board. Board members are eligible for reappointment. The members serve without compensation but must be reimbursed for their reasonable out-of-pocket expenses directly related to the governance of the district.

The board must adopt such rules and regulations as it deems necessary or advisable for conducting its business affairs. Rules and regulations of the board relative to the notice and conduct of meetings must conform to applicable law, including, if applicable, R.S. 42:4.1 et seq., relative to open meetings. It must hold regular meetings as must be provided for in the bylaws and may hold special meetings at such times and places within the district as may be prescribed in the bylaws.

Proposed law grants the district, acting through its board, has the authority to perform or have performed any function or activity necessary or appropriate to carry out the purposes of the district or for the overall betterment of the district.

The governing authority of EBR Parish is authorized to impose and collect a parcel fee within the district in an amount that is requested by the board. The fee must be a flat fee per "improved parcel" of land not to exceed \$150 per year for each "improved parcel," starting with \$50 for the first calendar year. "Parcel" is defined as a lot, a subdivided portion of ground, an individual tract, or a "condominium parcel" as defined in R.S. 9:1121.103. The owner of each parcel shall be responsible for payment of the fee. However, no fee can be imposed upon any parcel whose owner qualifies for and receives the special assessment level provided by Const. Art. VII, Sec. 18(G)(1). The fee is collected at the same time and in the same manner as property taxes.

The fee of \$50 for the first calendar year, subject to change thereafter by the board, not to exceed \$150 per year can be imposed only after approval by the electorate in the district in an election held at the same time as a regularly scheduled election in EBR. The fee expires in 5 years, but may be renewed if approved by voters of the district. If renewed, the term of the imposition of the fee shall be as provided in the proposition authorizing such renewal, not to exceed 8 years.

The proceeds of the fee must be used solely and exclusively for the purpose and benefit of the district; however, the EBR Sheriff may retain one percent of the amount collected as a collection fee.

The district is also specifically given the authority to provide or enhance security patrols in the district, to provide improved lighting, signage, or matters relating to the security of the district, to provide for beautification of and improvements for the district, or to provide generally for the overall betterment of the district. The purpose and intent of the proposed law is stated to be that any additional security patrols, public or private, or any other security or other services or betterments provided by the district is supplemental to and not in lieu of personnel and services to be provided in the district by the state, EBR, or their departments or agencies or by other political subdivisions.

The district may also procure and maintain liability insurance against any personal or legal liability of a board member that may be asserted or incurred based upon his service as a member of the board or that may arise as a result of his actions taken within the scope and discharge of his duties as a member of the board.

The board is required to adopt an annual budget in accordance with the Local Government Budget Act, R.S. 39:1301 et seq., and the district must be subject to audit by the legislative auditor pursuant to R.S. 24:513.

Proposed law authorizes the dissolution of the district if a majority of the area covered by the district becomes included in another district that serves similar purposes but includes

additional parcels of property adjacent to the district, if approved by the affirmative vote of not less than 5 members of the board. If the district is so dissolved, the funds of the district that relate to the portion of the district that is included in the new district, together with any other funds collected by EBR that relate to such portion of the district, must be transferred to the new district to be used for purposes of the new district. The remaining portion of funds, if any, are to be transmitted by the board to EBR Parish and such funds must be used only for law enforcement, security, improvement, and beautification purposes of the area that was formerly within the district but is not included in the new district. If the district is dissolved, authority for the imposition of the parcel fee ceases.

Proposed law requires the district to indemnify its officers and board members to the fullest extent permitted by R.S. 12:227, as fully as if the district were a nonprofit corporation governed thereby, and as may be provided in the district's bylaws. Protects board members or officers from liability for monetary damages for breach of his duty to any individual who resides, owns property, visits, or otherwise conducts business in the district, provided that the foregoing does not eliminate or limit the liability of a board member or officer for any of the following:

- (1) Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law.
- (2) Any transaction from which he derived an improper personal benefit.

To the fullest extent permitted by R.S. 9:2792 et seq., including R.S. 9:2792.1 through 2792.9, provides that a person serving the district as a board member or officer is not individually liable for any act or omission arising out of the performance of his duties.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 33:9097.8)